IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2116 OF 2006

Zaibunnisa Liyaqat H.Malik. ...Petitioner.

Vs.

Imtyiyaz-ul-Haq & Ors. ...Respondents

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Ms.Prachi Tatake with Mr.Mihir Desai for the Petitioner.

Mr.P.S. Dani with Mr. Shaikh Nasir Masih for Respondent No.1.

Ms.Mamata Sadha, AGP for Respondent Nos.5 and 6.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 21, 2006.

P.C. :

The First Respondent was the Controller of examination, the termination of whose services by the management was set aside by the School Tribunal. An Enquiry Committee had been appointed

to enquire into an allegation of misconduct against the First Respondent. A majority of two members of the three member Enquiry Committee exonerated the Respondent, while the third member dissented. The management accepted the report of the dissenting member and, without issuing a notice to show cause to the First Respondent, terminated the services of the First Respondent. In an appeal filed by the First Respondent against the termination of his service, the School Tribunal came to the conclusion inter alia that there was a breach of the principles of natural justice. The order of the School Tribunal has not been challenged by the management, but by a teacher against whom it is alleged that the First Respondent had made certain allegations. It is not necessary for this Court to express any view in regard to the allegations against or the grievance of the Petitioner. The Petitioner would be at liberty to pursue such remedies as are available independently, in accordance with law. A petition challenging the order of the School Tribunal cannot be entertained at the behest of the Petitioner, since it would be for the management to adopt appropriate proceedings. However, while disposing of this

petition, it is clarified that such remedies as are open to the Petitioner in law against the alleged allegations levelled against her by the First Respondent shall not be foreclosed either by the order of the School Tribunal or the present order of this Court. It is also clarified that no opinion is expressed by this Court on the correctness of the order of the School Tribunal and in the event that the order of School Tribunal is challenged by the management, the present order shall not come in their way. Subject to the aforesaid, the petition is disposed of.

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